

REMARKS

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application.

Disposition of Claims

Claims 1-53 are pending in this application. Claims 23, 27, and 45, and 48 have been canceled by this reply. Claims 1, 13, 22, 33, 35, 44, and 53 are independent. The remaining claims depend, directly or indirectly, from claims 1, 13, 22, 33, 35, and 44.

Claim Amendments

Claims 1, 13, 33, and 35 have been amended to recite that the method/apparatus is performed/used in a conditional access digital television system. Support for these claim amendments may be found, for example, on pages 8-10 and Figures 1 and 2 of the Specification. Claims 22, 44, and 53 have been amended to recite a conditional access digital television system, as well as to further define that the EMM includes at least one identifier to define a group of users for whom the message is intended, and wherein said apparatus comprises means for including in said message at least one logical operator defining how a plurality of said identifiers are to be combined. Support for these amendments may be found, for example, on page 3, lines 10-14 of the Specification. These amendments should not require further search, or at least simplify issues for appeal, and accordingly, entry and favorable consideration is respectfully requested.

Rejection(s) under 35 U.S.C. § 102

Claims 1-5, 7-9, 11, 13-16, 18-26, 28-30, 32-33, 35-38, 40-47, 49-51, and 53 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,229,621

("Kulakowski"). To the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed.

As described previously, the claimed invention is directed toward a technique for broadcasting a message to a user, where the message includes a portion of text, and where the message is broadcasted in the form of an entitlement management message (EMM). An EMM message is typically linked to access control and is defined by a specific structure (*See Specification, page 1, lines 30-31*). More specifically, the claimed invention relates to broadcasting an EMM to a user in a *conditional access television system*. The EMM is broadcast, where the EMM includes a text portion that is extracted by a receiver/decoder, and the text portion is displayed on a television screen for a user to view (*See Specification, page 1, lines 18-21*). Further, a *conditional access* digital television system provides the added feature of broadcasting those programs and EMMs to a user that are subscribed to by the user (*See Specification, page 12, lines 25-30*). Thus, the conditional access television system displays the text portions of the EMMs that are subscribed to by a user. Accordingly, amended independent claims 1, 13, 22, 33, 35, 44, and 53 recite that the method and/or apparatus is used in a conditional access digital television system.

Further, the EMMs broadcast in the claimed invention include at least one identifier that defines a group of users for whom the EMM is intended. This provides the advantage that a message may be sent to a group of users without the need for the message to be sent individually to every user in that group (*See Specification, page 2, lines 14-17*). This also prevents the EMMs from being communicated to users that are not intended to receive the EMMs. Each identifier may be an identifier of group having a particular characteristic (*e.g., geographic location, customer category, subscription criteria, etc.*) (*See Specification, page 2,*

lines 31-34 to page 3, line 2). Thus, an EMM may be directed to a group of users that have a particular characteristic in common. Further, it may be desired to send messages to users having a particular combination of characteristics in common, and thus, the EMM may include multiple identifiers of a plurality of characteristics and an operator defining how those identifiers are to be combined. The operator defines at least one logical operator, such as AND, OR, NOT, and/or XOR (*See* Specification, page 3, lines 10-14). For example identifiers specifying the geographic location and the subscription rights of a group of users may be combined using an AND logical operator such that the EMM is broadcast to users that have *both* the specified geographical location and the specified subscription rights.

Accordingly, amended independent claims 22, 44, and 53 now recite that the EMM includes at least one identifier to define a group of users for whom the entitlement management message is intended, and that the EMM includes at least one logical operator defining how a plurality of said identifiers are to be combined.

Turning to the rejection of the claims, for anticipation under 35 U.S.C. § 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present. The Applicant respectfully asserts that Kulakowski does not teach or suggest an EMM that is generated and broadcast for use with a conditional access digital television system.

In fact, Kulakowski is completely silent with respect to a conditional access digital television system. Kulakowski discloses broadcasting, receiving, and printing packets of information using bit-string selection means. The message broadcast in Kulakowski may be a coupon, a warning, appointment reminders, confirmations, tickets, etc. (*See* Kulakowski, Abstract). However, Kulakowski fails to disclose or suggest the use of a conditional access

digital television system to broadcast EMMs, where the text portion of the EMMs may be displayed on a television screen. Particularly, Kulakowski does not even contemplate a conditional access digital television system because Kulakowski relates to *printing* packets of information for remote users (*See* Kulakowski, Abstract). Clearly, if the packets of information are to be printed, then there is no need for a conditional access digital television system for displaying the information.

Further, with respect to claims 22, 44, and 53, the Examiner admits on page 8 of the Office Action mailed June 15, 2005, that Kulakowski fails to disclose or suggest the message includes at least one logical operator defining how a plurality of said identifiers are to be combined.

In view of the above, it is clear that Kulakowski fails to disclose or suggest each and every element of the amended independent claims. Thus, amended independent claims 1, 13, 22, 33, 35, 44, and 53 are patentable over Kulakowski. Dependent claims 2-5, 7-9, 11, 14-16, 18-21, 23-26, 28-30, 32, 36-38, 40-43, 45-47, and 49-51 are patentable for at least the same reasons.

Rejection(s) under 35 U.S.C. § 103

Claims 6, 17, 27, 39, and 48 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kulakowski in view of U.S. Patent No. 6,005,565 ("Legall"). Claims 27 and 48 have been canceled by this reply, and the limitations of these claims have been amended into independent claims 22 and 44, respectively. Thus, this rejection is now moot with respect to claims 27 and 48. To the extent that this rejection may still apply to the amended independent claims, this rejection is respectfully traversed.

The Examiner relies on Legall to disclose the limitation “the message includes at least one logical operator defining how a plurality of said identifiers are to be combined.” While it is true that Legall does disclose a logical operator, Legall’s use of the logical operator is to *combine multiple terms for a search criteria*. Legall clearly states:

“filters or search terms can be acquired from information associated with a broadcast. For example information such as broadcast categories, start time, and end time, are examples of parameters supplied by the broadcast system for generation of an electronic program guide. This information can be used to generate the filters used to perform the search.” *See* Legall, col. 4, ll. 1-10. “In the present embodiment, the user can select to search the World Wide Web or an electronic program guide.” *See* Legall, col. 4, ll. 13-14.

In contrast, as is clear from the claimed language of the amended independent claims, the logical operator used in the present invention is for combining characteristics of a group of users that are to receive an EMM. Legall says nothing about a logical operator used to specify a combination of characteristics of a group of users receiving any type of message.

Further, as described above, Kulakowski fails to disclose or suggest broadcasting an EMM for use in a conditional access digital television system. Legall fails to supply that which Kulakowski lacks. Legall relates to a power search tool that enables a user to search an electronic program guide to select broadcasts of programs to display *using the World Wide Web and URLs of web sites* (*See* Legall, Abstract), and **not** for a conditional access digital television system. In fact, Legall does not even broadcast a message with a text portion.

Thus, it is clear that amended independent claims 22, 44, and 53 are patentable over Kulakowski and Legall, whether considered separately or in combination. Dependent claims

6, 17, and 39, which recite a similar limitation as that amended into independent claims 22, 44, and 53, are patentable for at least the same reasons.

Further, as the Examiner did not address the Applicant's previous argument that there is no motivation to combine the cited references, Applicant again asserts that there is no motivation or suggestion to combine the teachings of Legall with the disclosure of Kulakowski. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must *both* be found in the prior art, *not* in Applicant's disclosure. *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991) (emphasis added). Further, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680 (Fed. Cir. 1990). In other words, there must be some objective reason to combine the teachings of the reasons. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993).

With respect to the instant action, Kulakowski is **in no way** concerned with searching electronic program guides. Further, Kulakowski does not, in any way, suggest a desire to provide any type of search tool or search method to allow a user to search electronic program guides with just one search. A complete study of Kulakowski and Legall confirms that, regardless of whether the teachings of Kulakowski and Legall can be combined, there is no suggestion or motivation set forth in either Kulakowski or Legall to combine the teachings of these references. Absent such a suggestion or motivation, the teachings of Kulakowski and Legall cannot be conveniently combined to render the claimed invention obvious. Thus, withdrawal of this rejection is respectfully requested for at least this reason as well.

Claims 10, 31, and 52 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kulakowski in view of U.S. Patent Publication No. 2001/0011350 ("Zabetian"). This rejection is respectfully traversed.

As discussed above, Kulakowski fails to disclose all the limitations of amended independent claims 1, 22, and 44. Zabetian also fails to disclose each and every limitation of these claims or supply that which Kulakowski lacks.

Zabetian discloses certifying electronic documents and to time-stamping and verifying time-stamps for documents transmitted using network resources (*See*, Zabetian, Abstract). Zabetian is completely silent with respect to broadcasting EMMs including a portion of text for use in a conditional access television system. Thus, amended independent claim 1 is patentable over Kulakowski and Zabetian, whether considered separately or in combination. Dependent claim 10 is patentable for at least the same reasons.

Further, Zabetian fails to disclose or suggest an EMM having at least one identifier to define a group of users that are to receive the EMM, and using a logical operator to combine different characteristics of a group of users to receive the EMM. Thus, amended independent claims 22 and 44 are patentable over Kulakowski and Zabetian, whether considered separately or in combination. Further, dependent claims 31 and 52 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 12 and 34 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kulakowski in view of U.S. Patent No. 6,449,494 ("Cashman"). This rejection is respectfully traversed.

As discussed above, Kulakowski fails to disclose all the limitations of the independent claims 1, 22, and 44. Cashman also fails to disclose each and every limitation of these claims or supply that which Kulakowski lacks.

Cashman discloses a portable radio telephone handset that operates as a data transfer terminal as well as an analog cellular telephone subscriber station. Two modes of operation, an analog cellular communication mode and a Cellular Digital Packet Data (CDPD) mode, are available in the handset (*See* Cashman, Abstract). The handset distinguishes between paging signals indicating CDPD mode communications and those indicating analog cellular communications (*See* Cashman, Abstract). The handset also automatically preempts CDPD communications in favor of analog cellular communications such as those carried out in an AMPS configuration (*See* Cashman, Abstract). Cashman fails to disclose broadcasting EMMs that contain a text portion to users for use in a conditional access digital television system. In fact, the only messages that Cashman discloses are notification messages and AMPS paging messages (*See e.g.*, col. 3, ll. 42-43 of Cashman), which are distinct from the EMM messages that are required by the independent claims 1 and 33.

Thus, it is clear that independent claims 1 and 33 are patentable over Kulakowski and Cashman, whether considered separately or in combination. Dependent claims 12 and 34 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully traversed.

Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 11345.044001).

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Respectfully submitted,

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